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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/774,626	02/01/2001	Motomu Fukasawa	865.4528	3044
5514	7590	01/13/2005	EXAMINER REIS, TRAVIS M	
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			ART UNIT 2859	PAPER NUMBER

DATE MAILED: 01/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/774,626

Applicant(s)

FUKASAWA, MOTOMU

Examiner

Travis M Reis

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,4,7-13 and 19-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-13,19-23,26,28 and 29 is/are allowed.
- 6) ☒ Claim(s) 1,3 and 7-10 is/are rejected.
- 7) ☒ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claim 10 is objected to because of the following informalities:

In claim 10, line 16-17, "wherein said, and" should be ---deleted---.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 3, 7-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Crocker (U.S. Patent 6394023).

Crocker discloses an apparatus (57) and management system of said apparatus comprising a recoverable and reusable unit (63) performing a function independent of determining the degree of deterioration of said recoverable and reusable unit, which is recoverable and reusable after use of said unit and said apparatus in the an environment (59), depending on the degree of deterioration of said unit due to the environment in which said apparatus is used, and deterioration indicator means (11a/77) (Figures 1-2, 5A) for indicating the degree of deterioration of said recoverable and reusable unit due to the environment in which said apparatus is used before said unit is reconditioned for reuse, said deterioration indicator means being disposed inside said apparatus (Figure 5A), the deterioration-resisting power of said deterioration indicator means that deteriorates over time

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due to the environment in which said apparatus is used being less than or equal to the deterioration-resisting power of said recoverable and reusable unit, said deterioration indicator means being arranged so as not to participate in any functions of said apparatus during use of said apparatus, said deterioration indicator means determining the degree of deterioration (4) of said recoverable and reusable unit before said unit is reconditioned for reuse by permitting a determination of the degree of deterioration thereof by inspection device (7) (Figure 3)(Abstract).

4. Claims 24, 25, & 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Matsushita (JP 11006809A).

Matsushita discloses an apparatus (1) & system for a recoverable and reusable lens unit/video camera (USE section, line 1) with an environmental history indicator means /moisture sensitivity film (4) mounted inside said apparatus, said film and apparatus together capable of being dismounted and further said film not interfering with the operation of said unit, said unit includes an optical member and said film has a property which varies with respect to humidity over time (Figure 1)(NOVELTY section lines 1-4, ADVANTAGE section, lines 1-3). Furthermore, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed (i.e. the variable property being determined by an inspection device, etc.) does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

With respect to the preamble of the claims 24, 25, & 27: the preamble of the claim has not been given any patentable weight because it has been held that a preamble is denied the effect of a limitation where the claim is drawn to a structure and the portion of the claim following the preamble is a self – contained description of the structure not depending for completeness upon the introductory clause. *Kropa v. Robie*, 88 USPQ 478 (CCPA 1951).

Allowable Subject Matter

5. Claims 11-13, 19-23, 26, 28, & 29 allowed.

6. The following is an examiner's statement of reasons for allowance:

With reference to claims 11, 12, 21, 26, 28, & 29, the prior art of record does not disclose or clearly suggest an apparatus with an optical filter having a light transmitting property which varies according to any environmental history with respect to temperature and humidity, in combination with the remaining limitations in the claims.

With reference to claim 13, the prior art of record does not disclose or clearly suggest an apparatus including a lens unit which is recoverable and reusable after use, said apparatus further comprising deterioration indicator means for indicating the degree of deterioration of said lens unit and the deterioration-resisting power of said deterioration indicator means that deteriorates over time due to the environment is used being less than or equal to the deterioration-resisting power of said lens unit, in combination with the remaining limitations in the claims.

With reference to claims 19 & 20, the prior art of record does not disclose or clearly suggest an apparatus including a lens unit which is recoverable and reusable after use, said apparatus further comprising a deterioration indicator member and the deterioration-resisting power of said deterioration indicator member that deteriorates over time due to the environment is used being less than or equal to the deterioration-resisting power of said lens unit, in combination with the remaining limitations in the claims.

With reference to claim 22, the prior art of record does not disclose or clearly suggest an optical apparatus including a unit which is recoverable and reusable after use, said apparatus further comprising, a deterioration indicator member and the deterioration-resisting power of said deterioration indicator member that deteriorates over time due to the

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environment is used being less than or equal to the deterioration-resisting power of said unit, in combination with the remaining limitations in the claims.

With reference to claim 23, the prior art of record does not disclose or clearly suggest an optical apparatus including a lens unit which is recoverable and reusable after use, said apparatus further comprising, a deterioration indicator member and the deterioration-resisting power of said deterioration indicator member that deteriorates over time due to the environment is used being less than or equal to the deterioration-resisting power of said lens unit, in combination with the remaining limitations in the claims.

7. Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The following is a statement of reasons for the indication of allowable subject matter:

With reference to claim 4, the prior art of record does not disclose or clearly suggest

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

9. Applicant's arguments with respect to claims 1, 3, & 7-10 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Raeder et al. discloses a polishing pad having a wear level indicator (U.S. Patent 6106661). Gallagher discloses the protection of consumable susceptor during etch (U.S. Patent 6071353). Hong Vong discloses a mask stencil wear indicator (U.S. Patent 5800856).

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Kleisle discloses a wear indicator for material transfer systems (U.S. Patent 5228478).

Worley discloses a non-destructive refractory erosion indicator (U.S. Patent 4103539).

Chamblin discloses an indicator for tire wear patterns (U.S. Patent 4074742).

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Travis M Reis whose telephone number is (571) 272-2249. The examiner can normally be reached on 8--5 M--F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306 for all communications.

Travis M Reis
Examiner
Art Unit 2859



Diego Gutierrez
Supervisory Patent Examiner
Technology Center 2800

tmr
January 10, 2005

CHRISTOPHER W. FULTON
PRIMARY EXAMINER